

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

WILLIAM POLHAMUS,

Plaintiff,

-against-

9:23-CV-1570 (LEK/ML)

BETHANY BRINKEROFF,

Defendant.

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**MEMORANDUM-DECISION AND ORDER**

**I. INTRODUCTION**

Plaintiff William Polhamus brings this pro se action pursuant to 42 U.S.C. § 1983 against Defendant Bethany Brinkeroff, asserting a violation of his constitutional rights. Dkt. No. 1. Brinkeroff filed a motion for summary judgment, arguing that Plaintiff failed to exhaust his administrative remedies and failed to state a claim. Dkt. No. 19 (“Motion”). On February 20, 2025, the Honorable Miroslav Lovric, United States Magistrate Judge, issued a report and recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(d), recommending the Motion be granted. Dkt. No. 28 (“Report and Recommendation”).

No party has filed objections to the Report and Recommendation. For the reasons that follow, the Court adopts the Report and Recommendation in its entirety.

**II. BACKGROUND**

The Court assumes familiarity with the factual background detailed in the Report and Recommendation. *See* R. & R. at 3–4.

In his analysis, Judge Lovric recommended granting Defendant’s Motion based on Plaintiff’s failure to exhaust his administrative remedies. *Id.* at 11. Plaintiff “has not put forth any

argument or evidence suggesting that he did in fact exhaust his administrative remedies or that such remedies were somehow unavailable to him.” *Id.* at 11–12. Accordingly, Judge Lovric concluded that “there is no genuine dispute of material fact [as to] whether Plaintiff failed to exhaust available administrative remedies: he did not.” *Id.* at 12.

Judge Lovric thus recommended that the Motion be granted in its entirety. *Id.*

### **III. LEGAL STANDARD**

“Within fourteen days after being served with a copy [of the Magistrate Judge’s report and recommendation], any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court.” 28 U.S.C. § 636(b)(1)(C); *see also* L.R. 72.1. However, if no objections are made, a district court need only review a report and recommendation for clear error. *See DiPilato v. 7-Eleven, Inc.*, 662 F. Supp. 2d 333, 339 (S.D.N.Y. 2009) (“The district court may adopt those portions of a report and recommendation to which no timely objections have been made, provided no clear error is apparent from the face of the record.”). Clear error “is present when upon review of the entire record, the court is left with the definite and firm conviction that a mistake has been committed.” *Rivera v. Fed. Bureau of Prisons*, 368 F. Supp. 3d 741, 744 (S.D.N.Y. 2019) (cleaned up). Upon review, a court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C).

### **IV. DISCUSSION**

No party objected to the Report and Recommendation within fourteen days after being served with a copy of it. Accordingly, the Court reviews the Report and Recommendation for clear error. *See DiPilato*, 662 F. Supp. 2d at 339. Having found none, the Court approves and adopts the Report and Recommendation in its entirety.

**V. CONCLUSION**

Accordingly, it is hereby:

**ORDERED**, that the Report and Recommendation, Dkt. No. 28, is **APPROVED and ADOPTED in its entirety**; and it is further


**ORDERED**, that the motion for summary judgment, Dkt. No. 19, is **GRANTED**; and it is further

**ORDERED**, that the Clerk close this action; and it is further

**ORDERED**, that the Clerk serve a copy of this Memorandum-Decision and Order on all parties in accordance with the Local Rules.

**IT IS SO ORDERED.**

DATED: March 14, 2025  
Albany, New York



LAWRENCE E. KAHN  
United States District Judge